IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6430 of 2007()

[CRIME NO.868/2007 OF KODUNGALLUR POLICE STATION]

: PETITIONERS/ACCUSED

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1. SAHEDA KARIM, W/O ABDUL KARIM,
RAYAM MARAKKAR VEETTIL, METHALA VILLAGE,
KODUNGALLUR TALUK, THRISSUR.

2. MOHAMED USMAN, GOVT. EMPLOYEE,
S/O AHAMMU, ERAMANGALATH HOUSE,
METHALA VILLAGE, KODUNGALLUR TALUK,
THRISSUR.

BY ADV. SRI.BABU KARUKAPADATH
SRI.K.A.NOUSHAD

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
SUB-INSPECTOR OF POLICE, KODUNGALLUR,
THROUGH PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6430 of 2007

Dated this the 23rd day of October, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations in a crime registered for offences punishable under Sections 379 and 447 r/w 34 I.P.C.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The petitioners had purchased an item of property as per Annexure-1 document. That document does not at all show that there are any purampoke land within the property purchased by the petitioners. There was a water channel through the property. Earlier, pipes were provided for flow of water and the channel was filled up. But on account of flooding of the locality in view of the heavy rains, the water channel was cleared and restored to its original condition. To facilitate that, some trees planted by the petitioners in the property have been removed. This has been falsely pictured as theft of such trees and false allegations have been raised. The petitioners rely on Annexure-2 notice issued to them by the panchayat and Annexure-3 reply given. It is submitted that on getting Annexure-3 reply, the present allegation has been raised in the F.I statement.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail. The learned Public Prosecutor only submits that appropriate conditions may be imposed to facilitate expeditious and efficient completion of investigation.

4. I am satisfied in the facts and circumstances of the case that anticipatory bail can be granted to the petitioners. I note that essentially the dispute is one regarding the possession of the property which the petitioners have allegedly obtained under the document.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 30.10.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 31.10.07 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall

thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 30.10.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 30.10.07.

(R.BASANT, JUDGE)

rtr/-